

In re Application of DeMott et al.
Application No. 10/617,923

REMARKS

The Pending Claims

Claims 1, 3-6, 8, 10-20, 23, 26, 27, 31-33, 35, 36, 42, 44, and 49 have been amended, and claims 7, 9, 21, 22, 41, and 43 have been canceled. Claims 1-6, 8, 10-20, 23, 26-40, 42, and 44-51 currently are pending in the application.

Summary of the Office Action

The Office Action rejects claims 1-16, 18-22, 26, and 35-50 under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 6,492,001 (Rubin et al.) (hereinafter "the Rubin '001 patent") in view of U.S. Patent No. 5,672,222 (Eschenbach) (hereinafter "the Eschenbach '222 patent").

The Office Action also rejects claims 17, 23, 27-34, and 51 under 35 U.S.C. § 103(a) as allegedly unpatentable over the Rubin '001 patent in view of the Eschenbach '222 patent and U.S. Patent Application Publication No. 2004/0058603 (Hayes) (hereinafter "the Hayes '603 publication").

Discussion of the Section 103 Rejections

As noted above, the Office Action rejects the pending claims as allegedly obvious over the Rubin '001 patent in view of the Eschenbach '222 patent and the Hayes '603 publication. Applicants respectfully traverse this rejection.

With respect to claims 1, 32, and the claims dependent thereon, Applicants note that the claims recite that the acrylic latex binder is applied to the second side (i.e., the side opposite the pile-containing side) of the nonwoven needled layer. To the extent that the Rubin '001 patent teaches the use of "crosslinking agents" (e.g., a latex) in treating the fabric layer, the Rubin '001 patent teaches that such "crosslinking agents" are included in the "treatment composition" (see, e.g., the Rubin '001 patent at col. 3, lines 54-64, col. 4, line 44 – col. 5, line 5, and col. 5, lines 13-16). The Rubin '001 patent further teaches that the "treatment composition" is applied to the fabric so that it "cover[s] equally well both sides (i.e., surfaces) of the fabric as well as the surfaces of the fabric to cover the interstitial spaces within the fabric" (see, the Rubin '001 patent at col. 3, lines 15-18). In view of this teaching, Applicants submit that one of ordinary skill in the art would not have been motivated to utilize the method disclosed in the Rubin '001 patent to treat a nonwoven needled layer having a pile on one of its surfaces. In particular, those of ordinary skill in the

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art would not have been motivated to utilize the method disclosed therein because the application procedures outlined in the Rubin '001 patent would have resulted in the deposition of the "crosslinking agents" onto the pile-containing surface. Those of ordinary skill in the art would have expected these "crosslinking agents" to negatively impact the characteristics of the pile surface by binding a portion of the adjacent pile fibers together. While the Rubin '001 patent states that the treated fabric has substantially the same hand, feel, texture, and drape of the uncoated fabric, Applicants note that none of the fabrics specifically disclosed by the Rubin '001 patent contain a pile on the surface thereof (see, e.g., the Rubin '001 patent at col. 2, line 60 – col. 3, line 5). Therefore, Applicants respectfully submit that one of ordinary skill in the art, at the time of invention, would not have been motivated to utilize the method disclosed in the Rubin '001 patent to treat a pile-containing nonwoven, as recited in claims 1, 32, and those claims dependent thereon.

Claim 35 and those claims dependent thereon recite that the binder material is only applied to the second side (i.e., the side opposite the first side having a flat felt texture) of the nonwoven needled layer. However, as noted above, the Rubin '001 patent specifically teaches that the treatment composition, which can contain a "crosslinking agent" (e.g., a latex), is applied to the fabric so that both sides of the fabric are evenly coated. Therefore, the Rubin '001 patent specifically teaches away from the invention defined by claim 35 and those claims dependent thereon.

The Eschenbach '222 patent and the Hayes '603 publication do not remedy the deficiencies of the Rubin '001 patent. In particular, neither reference appears to counter the Rubin '001 patent's teaching that the treatment composition containing the "crosslinking agents" should be evenly applied to both sides of the fabric. Furthermore, Applicants submit that the Rubin '001 patent cannot properly be modified in such a way as to arrive at the invention defined by the pending claims because such modification would change one of the express principles of operation of the Rubin '001 patent. In other words, Applicants submit that the method disclosed in the Rubin '001 patent cannot properly be modified in such a way as to apply the "crosslinking agents" to only one side of the fabric because the Rubin '001 patent teaches that application to both sides of the fabric is an integral part of the treatment procedure.

Claim 27 and those claims dependent thereon recite that the nonwoven needled layer comprises polymeric fibers selected from the group consisting of

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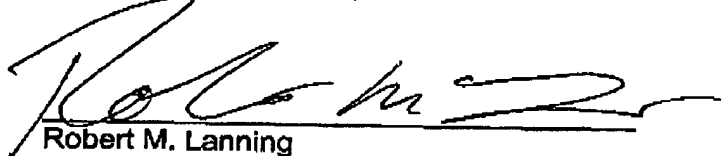
polyester fiber, polypropylene fibers, and mixtures thereof and that at least a portion of the polymeric fibers comprise a flame retardant material. None of the cited references appear to teach or suggest a nonwoven material comprising polyester or polypropylene staple fibers, at least a portion of which contain a flame retardant material. Therefore, Applicants submit that the invention defined by claim 27 and those claims dependent thereon cannot properly be considered obvious over the cited references.

In view of the foregoing, Applicants respectfully submit that the invention defined by the pending claims cannot properly be considered *prima facie* obvious over the cited references. The Section 103 rejection of the pending claims, therefore, should be withdrawn.

Conclusion

In view of the foregoing, the application is considered in proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone interview would expedite prosecution of the instant application, the Examiner is invited to call the undersigned.

Respectfully submitted,



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